

08 CIV 62187

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
HARRY PASCAL

on behalf of himself and all others similarly situated,

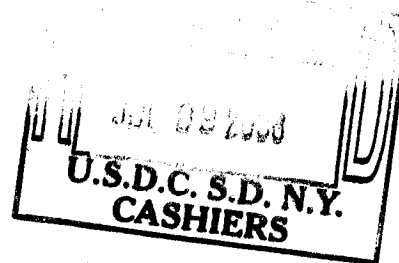
Plaintiff,

-against-

BUREAU OF COLLECTION RECOVERY, INC.

Defendant.
-----X

CLASS ACTION COMPLAINT



Plaintiff, by and through his undersigned attorney, alleges upon knowledge as to himself and his own acts, and as to all other matters upon information and belief, bring this complaint against the above-named defendant, its employees, agents, and successors, and in support thereof alleges the following:

PRELIMINARY STATEMENT

1. Plaintiff brings this action on his own behalf and on behalf of all others similarly situated for damages and declaratory and injunctive relief arising from the defendant's violation of §1692 *et seq.* of Title 15 of the United States Code, the Fair Debt Collections Practices Act (hereinafter "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331. This is an action for violation of 15 U.S.C. § 1692.

3. Venue is proper in this district under 28 U.S.C. § 1391(b)(2).

PARTIES

4. Plaintiff Harry Pascal (hereinafter "Pascal") is a resident of the State of New York, Rockland County. On or about June 6, 2008, plaintiff received a debt collection notice from defendant at plaintiff's home address. Exhibit A.

5. Bureau of Collection Recovery, Inc. (hereinafter "BCRI") is a Minnesota business corporation active in New York as a collection agency engaged in the business of collecting debts with its principal place of business located at 7575 Mitchell Road, Eden Prairie, Minnesota 55344. The principal purpose of defendant BCRI is the collection of debts using the mails and the defendant regularly attempts to collect debts alleged to be due another.

CLASS ACTION ALLEGATIONS

6. Plaintiff brings this action as a nationwide class action, pursuant to Rule 23 of the Federal Rules of Civil Procedure (hereinafter "FRCP"), on behalf of himself and all consumers who have received debt collection notices and/or letters from the defendant which are in violation of the FDCPA, as of the date of plaintiff's complaint, and their successors in interest (the "Class"). Excluded from the Class is the defendant herein, and any person, firm, trust, corporation, or other entity related to or affiliated with the defendant, including, without limitation, persons who are officers, directors, employees, associates or partners of BCRI.

7. This action is properly maintained as a class action. This Class satisfies all the requirements of Rule 23 for maintaining a class action.

8. The Class is so numerous that joinder of all members is impracticable. Upon information and belief, thousands of persons have received debt collection notices from the defendant which violate various provisions of the FDCPA.

9. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. These common questions of law and fact include, without limitation:

a. Whether the defendant violated various provisions of the FDCPA, including but not limited to 15 U.S.C. §§1692e, 1692e(2)(A), 1692e(2)(B), 1692e(10), 1692f(1) and 1692g(a)(1).

b. Whether plaintiff and the Class have been injured by the defendant's conduct;

c. Whether plaintiff and the Class have sustained damages and are entitled to restitution as a result of defendant's wrongdoing and, if so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution; and

d. Whether plaintiff and the Class are entitled to declaratory and/or injunctive relief.

10. Plaintiff's claims are typical of the claims of the Class, and plaintiff has no interests adverse or antagonistic to the interests of other members of the Class.

11. Plaintiff will fairly and adequately protect the interests of the Class and have retained experienced counsel, competent in the prosecution of class action litigation.

12. A class action is superior to other methods for the fair and efficient adjudication of the claims herein asserted. Plaintiffs anticipate that no unusual difficulties are likely to be encountered in the management of this class action.

13. A class action will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would engender. Class treatment also will permit the adjudication of relatively small claims by many Class members who could not otherwise afford to seek legal redress for the wrongs complained of herein. Absent a class action the Class members will continue to suffer losses of statutorily protected rights as well as monetary damages and if defendant's conduct will proceed without remedy it will continue to reap and retain the proceeds of its ill-gotten gains.

14. Defendant has acted on grounds generally applicable to the entire Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

STATEMENT OF FACTS

15. On or about June 6, 2008, defendant sent a collection letter to plaintiff Pascal demanding payment of a debt allegedly owed to Verizon Wireless. A copy of said letter is annexed hereto as Exhibit A.

16. The collection letter stated that the consumer owed Collection Fees of \$89.40.

17. Defendant has misled the consumer by adding collection fees which are not authorized by the agreement or permitted by law.

18. As a result of defendant's abusive, deceptive and unfair debt collection practices, plaintiffs have been damaged.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

19. Each of the above allegations is incorporated herein.

20. Defendant's debt collection letter violated various provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692e, 1692e(2)(A), 1692e(2)(B), 1692e(10), 1692f(1), 1692g(a)(1).

21. As a result of defendant's violation of the FDCPA, plaintiff has been damaged and is entitled to statutory damages, costs and attorney's fees.

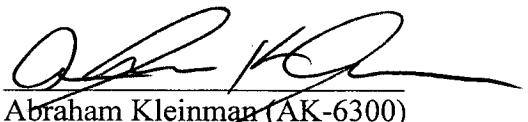
WHEREFORE, plaintiff respectfully requests that the Court enter judgment as follows:

- a) Declaring that this action is properly maintainable as a class action and certifying plaintiff as Class representative;
- b) Issue a preliminary and permanent injunction restraining defendant, its employees, agents and successors from, *inter alia*, engaging in conduct and practices that are in violation of the FDCPA;
- c) Issue a declaratory Order requiring defendant to make corrective disclosures;
- d) Awarding plaintiff statutory damages;
- e) Awarding plaintiff costs of this action, including reasonable attorneys' fees and expenses; and
- f) Awarding plaintiff such other and further relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38 of the FRCP, plaintiff hereby demands a trial by jury.

Dated: July 9, 2008
Uniondale, New York


Abraham Kleinman (AK-6300)
Kleinman LLC
626 RexCorp Plaza
Uniondale, New York 11556-0626
Telephone (516) 522-2621
Facsimile (516) 522-2890

Department # 1456
P.O. Box 1259
Oaks, PA 19456

Bureau of Collection Recovery, Inc.

7575 Corporate Way
Eden Prairie, MN 55344
888-276-8572

For Processing of Return Mail only.
Do not send correspondence to this address.

15477 - 1232

Harry Pascal
65 REMSEN AVE
MONSEY NY 10952-2419

Date: 06/06/08
Creditor: VERIZON WIRELESS
Principal Balance: \$496.69
Collection Fees: \$89.40
Total Amount Due: \$586.09
Account Number: 40599713
Creditor Number: 0070088514017500001

FDCPA Notice

Dear Harry Pascal:

The above-listed unpaid account has been placed with this agency for collection. It is our desire to assist you in this matter. Please make your payment directly to the address listed below.

This communication is from a debt collector. This is an attempt to collect a debt and any information obtained will be used for that purpose.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

As of the date of this letter, you owe a total amount of \$586.09. Because of interest, late charges and other charges assessed by your creditor that may vary from day to day, the amount due on the day you pay may be greater. Hence, if you pay the amount shown above, an adjustment may be necessary after we receive your check, in which event we will inform you before depositing the check for collection.

Hours of Operation (Central Time)

Monday - Thursday 7am-9pm
Friday 7am - 5pm

NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION.

Sincerely,
VICTOR VELASQUEZ
888-276-8572
Bureau of Collection Recovery

-----Please detach and return in the enclosed envelope with your payment-----

Harry Pascal
65 REMSEN AVE
MONSEY NY 10952-2419

Date: 06/06/08
Account Number: 40599713
Creditor: VERIZON WIRELESS
Principal Balance: \$496.69
Collection Fee: \$89.40
Amount Due: \$586.09
Amount Remitted: \$ _____

**PLEASE NOTE CHANGES TO YOUR
ADDRESS OR PHONE NUMBER BELOW.**

HOME #:

WORK #:

Pay online at: <http://payments.bureauofcollection.com>

Mail payment to:

Bureau of Collections
PO Box 9001
Minnetonka, MN 55345-9001



We are required under state law to notify consumers of the following rights. This list does not contain a complete list of the rights consumers have under state and federal law.

CALIFORNIA RESIDENTS: The state Rosenthal Fair Debt Collection Practices Act and the federal Fair Debt Collection Practices Act require that, except under unusual circumstances, collectors may not contact you before 8 a.m. or after 9 p.m. They may not harass you by using threats of violence or arrest or by using obscene language. Collectors may not use false or misleading statements or call you at work if they know or have reason to know that you may not receive personal calls at work. For the most part, collectors may not tell another person, other than your attorney or spouse, about your debt. Collectors may contact another person to confirm your location or enforce a judgment. For more information about debt collection activities, you may contact the Federal Trade Commission at 1-877-FTC-HELP or www.ftc.gov.

COLORADO RESIDENTS: FOR INFORMATION ABOUT THE COLORADO FAIR DEBT COLLECTION PRACTICES ACT, SEE WWW.AGO.STATE.CO.US/CADC/CADCMAIN.CFM.

MASSACHUSETTS RESIDENTS:
NOTICE OF IMPORTANT RIGHTS: YOU HAVE THE RIGHT TO MAKE A WRITTEN OR ORAL REQUEST THAT TELEPHONE CALLS REGARDING YOUR DEBT NOT BE MADE TO YOU AT YOUR PLACE OF EMPLOYMENT. ANY SUCH ORAL REQUEST WILL BE VALID FOR ONLY TEN DAYS UNLESS YOU PROVIDE WRITTEN CONFIRMATION OF THE REQUEST POSTMARKED OR DELIVERED WITHIN SEVEN DAYS OF SUCH REQUEST. YOU MAY TERMINATE THIS REQUEST BY WRITING TO THE DEBT COLLECTOR.

MINNESOTA RESIDENTS: THIS COLLECTION AGENCY IS LICENSED BY THE MINNESOTA DEPARTMENT OF COMMERCE.

NEW YORK CITY: New York City Department of Consumer Affairs License Number 1150415.

NORTH CAROLINA: North Carolina Permit Number 1074.
Our name and address is Bureau of Collection Recovery, 7575 Corporate Way, Eden Prairie, MN 55344.

TENNESSEE RESIDENTS: This collection agency is licensed by the Collection Service Board of the Department of Commerce and Insurance.

WISCONSIN RESIDENTS: This collection agency is licensed by the Division of Banking, P.O. Box 7876, Madison, Wisconsin 53707.